

Appendix J
Woodbridge Township Access Agreement

ACCESS AGREEMENT

THIS AGREEMENT, entered into this 14th day of February 2019 by and between Weston Solutions, Inc., a Pennsylvania corporation, located at 1400 Weston Way, West Chester, PA 19380 (hereinafter sometimes referred to as “Weston” or “Grantee”), and Woodbridge Township, located at 1 Main Street, Woodbridge NJ 07095 (“Owner”).

WITNESSETH:

WHEREAS, Lanxess Solutions US, Inc. (“Lanxess”) is the current owner and operator of a specialty chemical manufacturing facility at 1020 King George Post Road, Fords, Middlesex County, New Jersey, formerly owned and operated by Hatco Corporation (“Hatco”) and W.R. Grace & Co. – Conn. (“Grace”); and

WHEREAS, the New Jersey Department of Environmental Protection (“NJDEP”) is requiring environmental remediation of the former Hatco facility and areas of environmental media impacted or potentially impacted by conditions at or emanating from the Hatco facility; and

WHEREAS, Weston has entered into an agreement with Hatco and Grace, to investigate and remediate historical environmental contamination at the former Hatco facility; and

WHEREAS, Owner owns property designated as Lot 7 in Block 71 and Lot 100 in Block 77 by the current Tax Map of the Township of Woodbridge, Fords section (the “Property”); and

WHEREAS, the Grantee requires access to certain areas of the Property for the purpose of performing remediation of certain media, as more particularly set out in Exhibit A attached hereto (the “Work”), which is the Remedial Action Work Plan Addendum No. 4, dated August 29, 2017 and approved by the Licensed Site Remediation Professional (“LSRP”) and the United States Environmental Protection Agency (“USEPA”) by letter dated December 20, 2017; and

WHEREAS, the Grantee has requested permission to enter upon the Property to perform these activities; and

WHEREAS, Owner will have the work and/or plans for all work to be performed by Grantee reviewed by an engineer selected by Owner; and

WHEREAS, it is Owner’s intent to facilitate the Grantee’s undertaking of the Work, subject to the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the promises and the mutual covenants and agreements contained herein, the parties hereto, intending to be legally bound, agree as follows:

1. **Grant of Access.** Subject to the terms and condition hereinafter set forth, Owner hereby grants a license to Grantee, its agents, employees, licensees, consultants, contractors, subcontractors to enter upon the Property only for the purposes of conducting the Work. This license shall not be deemed a lien, encumbrance, restriction or covenant affecting the land.

2. **Scope of Work.** The Work relating to this Agreement is set forth in Exhibit "A", attached. Owner recognizes that the Work is being conducted pursuant to LSRP and USEPA oversight and that Grantee may be required to undertake additional activities on the Property as required by the LSRP, USEPA and/or NJDEP. If additional activities are required, Grantee shall provide Owner prior written notice of such additional activities. If Owner consents, which consent shall not be unreasonably withheld or delayed, the description of "Work" shall be deemed to include the activities identified in Grantee's written notice.

3. **Term.** This Agreement shall remain in effect until the earlier of the following events described herein in subparagraphs (a), (b) or (c) occurs: (a) an LSRP issues an RAO and the full conditions of the wetland permits applicable to the Property have been met and accepted by the NJDEP; (b) the Work set forth in Exhibit A, as may be amended from time to time, is completed; or (c) eight (8) years from the Effective Date of the Agreement have passed, provided that after three (3) years from the Effective Date of the Agreement, the definition of "Work" at Lot 7 in Block 71 shall thereupon automatically become modified to limit the scope of activities authorized under this Agreement during the remainder thereof to only encompass periodic wetlands restoration monitoring and activities necessary for compliance with Weston's wetlands permit and/or its NJDEP-approved Restoration/Monitoring Plan.

4. **No Interference/Restoration.** While on the Property, the Grantee agrees to take all reasonable steps to prevent unreasonable interference with Owner's access to and/or use of the Property or Owner's operations, if any, on the Property. Within 30 days of completion of the Work or termination of this Agreement (whichever occurs first), Grantee shall restore those areas of the Property to the conditions reasonably approximating the conditions which existed prior to Grantee's commencement of the Work. Grantee shall be responsible for the security and repair of its equipment and supplies on the Property and for the safety and security of all persons and property in connection with the performance of Grantee's Work on the Property. Grantee hereby releases Owner from liability for any claims for loss, vandalism, theft or damage of any kind to such equipment and supplies unless the Owner shall have intentionally or negligently caused the loss, vandalism, theft or damage to said equipment or supplies.

5. **Compliance With Applicable Law.** The Grantee, its successors and assigns, agree that its activities on the Property shall be performed in accordance with the requirements of all applicable federal, state and municipal law, regulations and ordinances. The Grantee will obtain all permits or approvals necessary to undertake the Work at their sole cost and expense. Owner agrees to reasonably cooperate with Grantee in obtaining all such permits and approvals. Owner agrees to promptly execute any requisite documents prepared by Grantee to obtain such permits and approvals, provided such documents are reasonably calculated to obtain the permits and approvals and do not contain any misrepresentations or material inaccuracies which, in Owner's reasonable opinion, adversely affect Owner's interests in regard to the Property.

6. **Owner's Obligation and Rights.** To the extent in its possession or otherwise reasonably available to Owner, Owner shall provide to Grantee, within five (5) business days of a written request for same, any copies of existing plans or drawings which identify underground utility lines or any other known hidden obstacles in the areas where the Work set forth in Exhibit A will be undertaken. Owner makes no representations or warranties concerning the condition of the Property. Grantee shall remain solely responsible for making its own independent inquiries into the presence of utilities and marking the location(s) of any such utilities, consistent with good commercial practices, and shall avoid interference with or damage to same. Owner shall have the right to be present during the performance of any Work and to collect, at Owner's own cost, split samples of any samples collected by Grantee in connection with the Work. Prior to Grantee's submission to NJDEP, Owner shall have the right to review and comment upon all draft work plans for any Work set forth in Exhibit A.

7. **Grantee's Obligations.** Grantee further agrees to the following requirements, each of which are acknowledged to be material to the agreement:

(a) Grantee shall afford reasonable prior written notice of at least 15 days (which may be modified by consent of Parties) to Owner's designated representative as to any Work intended by Grantee or its representatives to be conducted on the Property.

(b) Grantee shall perform the Work in a good and workmanlike manner, with reasonable diligence and with reasonable precautions taken to ensure the safety of persons and property in the area of the Work. At the end of each workday, Grantee must either (i) adequately secure any open excavations, test pits or borings to minimize the potential for injury by taking all necessary steps to safeguard such excavation, test pit or boring so that they do not create an unsafe condition and prevent entry into the work area or the area of any open excavations, test pits or borings by unauthorized personnel; or (ii) return such excavations, test pits or borings to grade.

(c) All soil, sediment, groundwater, development water, drill cuttings, and any used personal protective equipment, drill casings or other contaminated material (hereinafter "Grantee-Generated Waste"), if any, removed or used during the Work shall be the responsibility of Grantee, and Grantee shall be responsible and liable, at Grantee's sole cost and expense, for the proper handling and storage of such Grantee-Generated

Waste in accordance with all applicable federal, state and local laws, rules and regulations ("Governmental Requirements").

(d) Except for instances where excavated or purged test materials from the ground are permitted by the NJDEP Field Sampling Procedures Manual (at sections 2.4.5.6 or 2.4.5.7, as modified or amended) or otherwise specifically approved by NJDEP (to the extent required) to be returned and reused on-site, all Grantee-Generated Waste shall, at Grantee's sole cost and expense, be removed from the Property and Grantee, at Grantee's sole cost and expense, shall properly transport and dispose of off-Property at a disposal facility duly licensed to accept such waste (or an NJDEP approved location) all such Grantee-Generated Waste, in accordance with all Governmental Requirements and as set forth herein.

(e) Grantee shall properly handle, manage and store all Grantee-Generated Waste while same remains on the Property, and shall remove all Grantee-Generated Waste from the Property within 30 days after the completion of the Work, provided that any such waste does not constitute an obstruction for any tenant or create an unsafe condition, in which event any such waste shall be removed or relocated immediately upon notice to Grantee by Owner. Should Grantee fail to remove all Grantee-Generated Waste from the Property within the period specified above, Owner, upon thirty (30) days after providing written notice to Grantee, shall have the right to remove and dispose of same in any manner deemed reasonable and consistent with law, whereupon Grantee shall immediately upon presentation of a request for reimbursement, reimburse Owner for all loss, costs and expenses incurred by Owner in connection therewith.

(f) Any and all validated data collected by the Grantee and/or its representatives regarding the Property shall be provided to Owner within thirty (30) days of validation and will be kept confidential by Owner until Grantee's submission of such data to NJDEP.

(g) In addition, concurrent with submission to NJDEP, Grantee shall provide Owner with copies of all correspondence with and reports to NJDEP concerning the Property, including but not limited to all sampling plans and other workplans.

(h) Grantee agrees that it shall be responsible for all engineering review expenses incurred by Owner, in an amount not to exceed \$4,000. Owner shall present to Grantee for payment all invoices that reflect said engineering review expenses, which shall be paid by Grantee. Said invoices and/or any correspondence to Grantee regarding said invoices shall read "Access Agreement – Hatco Project Review Fee."

8. **Third Parties.** Owner represents that there are no parties other than itself having interests in the Property.

9. **Insurance.** During the term of this Agreement, Grantee and/or its contractors, shall purchase and maintain, at their own cost and expense, commercial general liability ("CGL") insurance with personal injury and property damage limits of

not less than \$5,000,000 for each occurrence and in the aggregate, and Professional Liability/Errors & Omissions Liability with limits of not less than \$1,000,000. Such CGL policy shall add Woodbridge Township ("Woodbridge") ("Owner") as additional insureds and such policy may not be cancelled, terminated or substantially modified without 30 days advance written notice to Owner. Grantee shall provide Owner with a copy of such policy or certificate of insurance evidencing such coverage at least five (5) business days prior to first entering the Property to perform any Work.

10. Indemnification.

(a) Grantee agrees to defend, indemnify and hold Owner and their respective officers, directors, shareholders, partners, agents and/or employees harmless from and against any and all demands, claims or suits arising directly or indirectly from the acts or omissions of Grantee and/or its authorized agents, employees, consultants and contractors in conducting Work at the Property, including but not limited to attorneys' fees and costs of suit.

(b) Should Owner make a claim for indemnification pursuant to this Section 10, it shall have the right to employ separate counsel, in addition to the counsel provided by Grantee, in any action or proceeding and to participate therein if the proceeding is being controlled by Grantee, but the fees and expenses of such separate counsel shall be at the expense of Owner, unless: (i) the employment of separate counsel has been specifically authorized by Grantee in writing; (ii) Grantee has failed to defend as required under the applicable indemnification above; or (iii) there exists or is reasonably likely to exist, in the written opinion of other counsel engaged in private practice and authorized to practice in the given venue ("Conflict Counsel's Opinion" or "Opinion"), an actual or potential conflict of interest ("Conflict") that would make it inappropriate in the reasonable judgment of such other counsel for the same counsel to represent both the Owner and Grantee and Grantee does not provide separate counsel reasonably acceptable to Owner. In the event that Conflict Counsel's Opinion determines that there is no such Conflict, the cost of obtaining such Opinion shall be paid by Owner. In the event that Conflict Counsel's Opinion determines that a Conflict exists or is reasonably likely to exist, then the cost of obtaining said Opinion shall be paid by Grantee.

(c) In the event of an indemnifiable claim pursuant to this Section 10 ("Claim"), defense counsel selected by Grantee to defend Owner, shall be (i) subject to Owner's approval (which shall not reasonably be withheld); and (ii) competent in the area(s) of legal practice implicated by the Claim against Owner.

(d) The indemnification in this Section 10 shall not extend to demands, claims or suits arising directly or indirectly from the greater comparative negligence or intentional misconduct of Owner.

(e) The provisions of this Section 10 shall survive the termination of this Agreement.

11. **No Waiver.** By the execution of this Agreement, neither party hereto waives or relinquishes any rights, claims or defenses and the parties fully reserve any such rights without regard to the terms of this Agreement. Specifically, nothing in this Agreement in any way modifies, reduces or alters any of the liabilities, obligations, duties or rights of the Owner and Grantee with respect to claims that now exist or may exist in the future under any and all federal and state environmental statutes, including but not limited to CERCLA and the New Jersey Spill Compensation and Control Act, under the common law or under any other applicable law. No failure by either party to insist upon strict compliance with any of the terms or conditions of this Agreement shall constitute a waiver of such terms or conditions or any breach thereof. Any such waiver must be in writing and signed by the waiving party. The waiver of any breach of any term or condition of this Agreement does not waive any other breach of that term or condition or of any other term or condition.

12. **Termination.** Owner may terminate this Agreement for good cause, including breach of any material term thereof, upon providing Grantee with 30 days notice of its intent to terminate, should Grantee fail to cure the breach within this time period. Upon termination of this Agreement, Grantee shall remove any equipment or supplies installed or used in connection with the Work and restore the Property to substantially the condition as it existed prior to commencement of the Work. In the event that Grantee fails to remove any such equipment or supplies, or return the Property to the prior condition within thirty (30) days after the expiration of this Agreement, Owner shall have the right to (a) retain same as its own property, free and clear of the rights of others; (b) remove same and dispose of it in any manner it deems reasonable, whereupon Grantee shall reimburse Owner for all losses, costs and expenses incurred by Owner in connection therewith; (c) restore the Property to substantially the condition as it existed prior to the commencement of the Work, whereupon Grantee shall reimburse Owner for all losses, costs and expenses incurred by Owner in connection therewith; (d) return all excavations, test pits and borings to grade whereupon Grantee shall reimburse Owner for all losses, costs and expenses incurred by Owner in connection therewith; and/or (e) resort to any and all other remedies available at law or in equity.

13. **Notices.** Any notice, request, or other communication given or made pursuant to this Agreement shall be in writing and shall be deemed given or served upon the addressee, when (a) delivered by hand (with written confirmation of receipt), (b) sent by facsimile (with written confirmation of receipt), or (c) deposited in the U.S. mail, certified mail (return receipt requested, postage prepaid), or (d) when received by addressee, if sent by a nationally recognized overnight delivery service (receipt requested), in each case to the appropriate addresses and facsimile numbers set forth below (or to such other addresses and facsimile numbers as a party may designate by notice to the other party):

If to Owner: John O. Bennett
Business Administrator
1 Main Street, Woodbridge, NJ 07095
with copy to: Law Department

1 Main Street, Woodbridge, NJ 07095

AND copy to: Eric Lange
James P. Nolan & Associates
61 Green Street, Woodbridge, NJ 07095

If to Grantee: Jason Schindler, LSRP
Weston Solutions, Inc.
205 Campus Drive
Edison, NJ 08837
Tel. No.: 732-417-5804
Fax: 732-417-5801

14. **Severability.** In case one or more of the covenants, terms and provisions contained in this Agreement shall be invalid, illegal or unenforceable in any regard, the validity of the remaining covenants, terms and provisions contained herein shall be in no way affected, prejudiced or disturbed and the remaining covenants, terms and provisions shall remain in full force and effect.

14A. **Entire Understanding.** This Agreement embodies the entire understanding and agreement of the parties with respect to the grant of access to the Property to Grantee to conduct the Work set forth in Exhibit A, and supersedes all prior representations, agreements and understandings, whether written or oral, between the parties with respect to the Property, including all written and oral statements or representations by any official, employee, agent, attorney, consultant or independent contractor of either Grantee or Owner.

15. **New Jersey Law.** This Agreement has been executed and delivered in the State of New Jersey and shall be deemed to be a contract made under, and shall be construed for all purposes in accordance with, New Jersey law, without regard to principles of conflict of law.

16. **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their successors. This Agreement shall not be assigned, in whole or in part, to any other person or entity. If Owner sells its property, it shall be obligated to disclose this Agreement to any new Owner.

17. **Execution and Counterparts.** This Agreement shall be executed by an authorized representative of the Owner and Grantee and each party warrants and represents the authenticity of the representative signing on its behalf. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

18. **Captions.** The paragraph headings herein are for convenience only and shall not be construed to limit or affect any provision of this Agreement. This Agreement

was drafted by counsel for the Grantee as a matter of convenience and shall not be construed for or against either party on that account.

19. **Effective Date.** This Agreement shall take effect on the date on which it is signed by both parties (the "Effective Date").

IN WITNESS WHEREOF, the Grantee and Owner have caused this agreement to be executed as of the date first written above.

WITNESS:

WESTON SOLUTIONS, INC.

Coleen Devorak

By: Debra A. Jones

WITNESS:
CORPORATION

WOODBIDGE TOWNSHIP

Mark L. Lupton

By: John O. Bennett
John O. Bennett, Business Administrator

STATE OF NEW JERSEY)
) SS:
COUNTY OF)

I certify that on February 18, 2019, Sally Jones,
and authorized representative of WESTON SOLUTIONS, INC., personally came before
me and acknowledged under oath, to my satisfaction, that this person:

- (a) is named in and personally signed the attached documents;
- (b) signed, sealed and delivered this document as his act and deed

Mary Ann Cabrera
NOTARY

MARY ANN CABRERA
Notary Public of New Jersey
ID# 2431933
My Commission Expires 4/1/2023

STATE OF NEW JERSEY)
) SS:
COUNTY OF Middlesex)

I certify that on FEBRUARY 14, 2019, John D. Bennett,
and authorized representative of WOODBRIDGE TOWNSHIP, personally came before
me and acknowledged under oath, to my satisfaction, that this person:

- (a) is named in and personally signed the attached documents;
- (b) signed, sealed and delivered this document as his act and deed

Erika J. Aber
NOTARY

ERIKA J. ABER
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 10/23/2021

EXHIBIT A

Work covered under this agreement

Block 71, Lot 07 (Location of Woodbridge Pond west of former Hatco Property) and Block 77, Lot 100 (Channel D Area south of former Hatco Property):

1) Implement remedial action as described in the approved Remedial Action Work Plan Addendum No. 4, dated August 29, 2017 and previously accepted by the Township on August 28, 2017, certified by the LSRP on September 5, 2017, and approved by USEPA by letter dated December 20, 2017.

2) Implement work as necessary to comply with regulatory permits obtained in support of item 1 above, including but not limited to restoration, monitoring and maintenance of restored wetlands.